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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1158 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PATEL CHANDRAKANT MUKUNRAI

Versus

PATEL DINESHCHANDRA DHWARKADAS

Appearance:

MR HM PRACHCHHAK for Petitioner No. 1

MR PJ VYAS for Respondents No. 1-2

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 23/10/2001

ORAL JUDGEMENT

1. Rule. Mr. P.J. Vyas waives service of Rule on behalf of the respondents.

2. Heard the learned counsel for the respective

parties. The respondent no.1 who is the plaintiff in Civil Suit No.51 of 2001 in the Court of Civil Judge (J.D.), Patadi has filed the said suit against the respondent no.2 on the basis of an agreement of sale of 1989 in his favour. The respondent no.2 did not object to the grant of interim relief in favour of the respondent no.1. The petitioner, thereafter, made an application to be impleaded as defendant in the said suit on the basis of a sale deed which, according to him, was executed by the respondent no.2 in his favour on 13th March, 2001. It appears that the respondent no.2, in his reply, has contended that the said document was obtained by fraud. However, that will be a matter of evidence at the trial. In the circumstances, in my opinion, the learned Trial Judge has committed illegality in not allowing the application of the petitioner to be joined as a party defendant. The impugned order is, therefore, set aside and the petitioner's application (Exh.11) is allowed and he is ordered to be joined as defendant in the said suit. Rule made absolute accordingly. Direct Service permitted.

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